HIGH COURT OF CHHATTISGARH AT BILASPUR

Transfer Petition No. 05/2007

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Applicant : Rajeshwari Bai, W/o Dani Prakash Mishra, Aged about 22 years, R/o Sahaspur Lohara, Presently R/o. Salik Ghiriya, Police Station: Dongargaon Post: Arjuni, Tahsil : Rajnandgaon, Distt. Rajnandgaon (CG)

VERSUS

Non-applicant : Dani Prakash Mishra, S/o Govind Prasad Mishra, Aged about 25 years, R/o Sahaspur Lohara, Occupation: Business, Police Station : Lohara, Tahsil: Kawardha, Distt. Kabirdham (CG)

Present: Shri Anup Mazaumdar, counsel for the petitioner.
Shri H.B. Agarwal, Senior Advocate with Ms. Sangeeta Mishra, counsel for the respondent.

ORAL ORDER
(Passed on 15th March, 2007)

The following oral order of the Court was passed by **Dilip Raosaheb Deshmukh, J.**

At the request of learned counsel for the parties, this petition is being finally disposed of at the stage of admission.

1. Heard finally.

2. Brief facts are that the non-applicant herein filed a petition under Section-13 of Hindu Marriage Act bearing case No.12-A/2006 before the District Judge, Kawardha. The applicant-wife seeks transfer of the above case to District Rajnandgaon on the ground that father of the applicant is a heart patient and suffering from various ailments. Besides, the applicant is also residing at her maternal home in District-Rajnandgaon and the Court at Rajnandgaon also has jurisdiction to hear the divorce petition. The applicant would face undue hardship in travelling from Rajnandgaon to Kawardha for attending hearings of the matter. It was also urged that the applicant apprehends danger to her life and also harassment at the hands of the non-applicant.

3. On the other hand, Shri H.B. Agrawal, learned Senior Advocate has seriously opposed the application and contended that while awarding interim maintenance, the learned lower Court has taken into

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consideration the amount of expenses to be incurred by the applicant herein for undertaking journey from Rajnandgaon to Kawardha. It was also urged that brother of the applicant had criminal antecedents and was likely to harass the non-applicant, if the matter was transferred to Rajnandgaon. Learned Sr. counsel for the non-applicant submitted that he would have no objection if the matter is transferred to the District Judge, Bilaspur and also submitted that the non-applicant is ready and willing to pay the to and fro travelling expenses of the applicant on each hearing.

4. Having heard rival contentions, the application deserves to be allowed. In view of the dictum of the Apex Court in **Neelam Pravin Singh Bhadoria v. Pravin Singh Ramakant Bhadoria 2006 (2) ANJ (SC) (NOC) 137 – 2006 (6) Supreme 757** and **Sumita Singh V. Kumar Sanjay and another 2002-AIR-(SC)-0-396 / 2001-SCC-10-41,** it is now well settled that in such matters the convenience of wife has to be seen. In this case, the applicant is residing in District-Rajnandgaon. The proceedings initiated by the non-applicant are at District-Kawardha which is situated 140 Kilometers from her maternal home. The documents enclosed by the applicant shows that her father is suffering from serious heart ailments. There is no direct connection or transport either by Railway or road from her place of residence i.e. Village-Sahaspur Lohara to Kawardha. Father of the applicant is unable to accompany her to Kawardha on each date of hearing due to various ailments. The applicant-wife also apprehends harassment at the hands of the non-applicant at Kawardha. In this view of the matter, it is just and expedient that the case No.12-A/2006 is transferred to the District Judge, Rajnandgaon.

5. Consequently, the application (Transfer Petition (Civil) No.05/2007) is allowed. The case No. 12-A/2006 pending before the District Judge, Kawardha is transferred to the Court of District Judge, Rajnandgaon. Parties are directed to appear before the District judge, Rajnandgaon on 25-04-2007.

Certified copy as per rules.

Sd-/
Dilip Raosaheb Deshmukh
Judge